

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 220 and 240, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205 and 206, of said Code, proposes to amend subsection (f) of Section 7.00, Title 14, California Code of Regulations, relating to the Southern District Steelhead Waters.

Informative Digest/Policy Statement Overview

Steelhead trout populations within the Southern California Steelhead Evolutionarily Significant Unit (ESU), from the Santa Maria River (inclusive) to Malibu Creek, were listed by the federal government as endangered in October 1997. On May 2, 2002, the National Marine Fisheries Service (NMFS) extended the range of the Southern California Steelhead ESU from Malibu Creek to the Mexican border. As a federally listed endangered species, southern California steelhead are prohibited from being taken as defined by the federal Endangered Species Act (ESA).

Current general regulations for the Southern Fishing District allow fishing all year with a five-fish bag limit in streams and tributaries (except those listed by name in the Special Regulations) above Twitchell Dam on the Cuyama River, above Bradbury Dam and below Gibraltar Dam on the Santa Ynez River; Robles Diversion Dam on the Ventura River; and Rindge Dam on Malibu Creek.

In 2004 a fishway was constructed at the Robles Diversion that is designed to allow volitional passage of steelhead above the diversion. Currently there has been no verified passage by adult steelhead above the diversion. Monitoring of the fishway and upstream portions of the Ventura River and associated tributaries is ongoing. If passage of adult steelhead cannot be verified during the proposed regulation review period, the Department will request that the Commission not act on this proposed regulation change. However, if adult steelhead passage is verified above Robles Diversion before these regulations can be adopted into law, the Department will initiate an emergency regulation proposal recommending that anadromous portions of all streams above the Robles Diversion immediately be closed to all fishing.

For angler clarification, the Department is proposing to describe the non-anadromous sections of Matilija Creek, and North Fork Matilija Creek and add these streams to the list of waters within the Southern District regulations that are open to angling.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Secretary of State Auditorium, 1500 11th Street, Sacramento, California on Thursday, May 5, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 5, 2005 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than May 5, 2005, at the hearing in Sacramento, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Jon Fischer or Jon Snellstrom at the preceding address or phone number. Dr. Ed Pert, Department of Fish and Game, phone (916) 445-3616 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The recovery of the endangered Southern California steelhead population in the Ventura River will be assisted by this action. Businesses and the public should ultimately benefit from the recovery of the species.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None

- (f) Programs mandated on Local Agencies or School Districts: None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None

- (h) Effect on Housing Costs: None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: March 8, 2005

Jon Fischer
Executive Director